

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9307 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

ADARSH SECURITY & PERSONAL FORCE
Versus
REGIONAL PROVIDENT FUND COMMISSIONER

Appearance:

1. Special Civil Application No. 9307 of 2004
MR BHARAT T RAO for Petitioner No. 1
MR MS RAO for Respondent No. 1-2
-

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 17/08/2004

ORAL JUDGEMENT

Rule. Learned advocate Shri M.S.Rao waives
service of notice of rule on behalf of the respondents.
At the joint request of the learned advocates appearing

for the parties, the matter is taken up for final disposal today.

2. In the present petition, the petitioner has challenged the order dated 18th July 2003 passed by the Assistant Provident Fund Commissioner in exercise of powers under section 7-A of the Employees Provident Fund and Miscellaneous Provisions Act ("the said Act" for short) as also the demand notices dated 6.4.04 and 15.6.04 issued pursuant to the said order dated 18.7.03. It is the case of the petitioner that on account of earthquake and subsequent riots, the petitioner could not effectively represent its case before the authorities. The petitioner's counsel has also submitted that the petitioner has discharged its entire provident fund liability barring a relatively small amount of Rs.1,70,295/=.

3. From the impugned order, it is apparent that number of opportunities were given to the petitioner. However, since the petitioner did not participate, the respondent passed the ex-parte order. I am, however, of the opinion that considering the facts of the case, the petitioner is required to be given one more opportunity to present its case before the competent authority under the said Act. The petitioner, however, has to deposit the amount which admittedly is due. The petitioner has produced before me a chart showing the amount due according to which the outstanding amount comes to Rs.1,70,295/= which the petitioner undertakes to deposit before the authorities latest before 31st October 2004. The counsel for the petitioner states that the respondents have attached the bank account of the petitioner of State Bank of India, Rakhial Branch which has a balance of Rs.40,000/= and which the petitioner agrees to be paid over to the respondents. The total amount to be paid by the petitioner accordingly stands diminished to that extent. On the condition that the petitioner deposits the said amount as undertaken, the impugned order dated 18.7.03 is quashed and set aside and the matter is remanded for fresh consideration after hearing the petitioner. In view of the setting aside of the order of 18.7.03, subsequent notices dated 6.4.04 and 15.6.04 also do not survive.

4. With the above directions, the petition stands disposed of. Rule is made absolute to the above extent. The amount of Rs.10,000/= deposited by the petitioner pursuant to the order dated 2.8.04 passed by this Court be paid over to the respondent by the Registry.

Direct service is permitted.

(Akil Kureshi, J.)

(vjn)